

REMARKS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for the indication that the drawings are acceptable, and for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document in the Official Action.

Upon entry of the above amendments claim 1 will have been amended. Claims 1-3 are currently pending. Applicants respectfully request reconsideration of the outstanding rejections, and allowance of all the claims pending in the present application.

On pages 2 and 3 of the Official Action, claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by RESCH et al. (U.S. Patent No. 4,629,258).

Applicants respectfully traverse the rejection of claims 1-3 under 35 U.S.C. § 102(b).

Claim 1 as currently amended includes, inter alia, "a push rod connected to the brake pedal and movable between a first position spaced from the spool and a second position contacting the spool, wherein the push rod moves in response to the stroke of the brake pedal in order to contact and push the spool; wherein the proportional pressure controller controls the pressure of the pressurized braking liquid in accordance with the stroke signal and free from the motion of the push rod before the push rod contacts and pushes the spool, and in accordance with the stroke signal and the motion of the push rod after the push rod contacts and pushes the spool."

Applicants submit that RESCH et al. lacks any disclosure of a push rod which is connected to a brake pedal, and which moves between positions *spaced from* a spool and *contacting* a spool. In particular, Applicants note that there is no disclosure in RESCH et al. that the rod/plunger 67 (as designated by the Examiner) contacts the spool 29, 38, 39 (as designated by the Examiner). In this regard, Applicants note that the portion of RESCH et al. pointed out by the Examiner (i.e., column 2, lines 35-43) instead refers to the “primary piston” 29 striking against the “secondary piston” 31. Note, for example, column 4, lines 43-44; column 5, line 18; column 6, lines 2-14; column 15, lines 6-15; and column 18, line 10, for further explanation and verification that the term “primary piston” refers to element 29, and that the term “secondary piston” refers to 31 in RESCH et al.

Further, insofar as the Examiner points to column 10, lines 20-46 of RESCH et al., which describes functions during various system failure conditions, Applicants submit that there is no disclosure that the rod/plunger 67 comes into contact with the spool 29, 38, 39. In particular, Applicants submit that the Examiner’s statement on page 3 of the Official Action that “It is believed that the force needed would have to be transferred from the push rod 67 to the spool 29, 38, 39 by direct contact of the push rod and the spool . . . ” is mere speculation on the part of the Examiner which has no support in the disclosure of RESCH et al. Applicants submit that it is clear that a statement of anticipation under 35 U.S.C. § 102(b) can not be based upon such speculation.

Applicants further submit that, contrary to the Examiner’s stated position, the various portions of RESCH et al. which the Examiner quotes on page 4 of the Official Action do not

state, require or imply that the rod/plunger 67 contacts the piston 29. In this regard, Applicants submit that the force/pressure discussed in these portions of RESCH et al. is just as likely to be transferred to the piston 29 by the spring 73, as explained in detail below, rather than by contact between rod/plunger 67 and piston 29. Applicants again submit that a statement of anticipation under 35 U.S.C. § 102(b) can not be based upon mere speculation regarding contact between rod/plunger 67 and piston 29.

Applicants further note that the rod/plunger 67 is biased away from the spool 29, 38, 39 by a spring 73 (note column 5, lines 56-65). According, Applicants submit the although there is no disclosure that the rod/plunger 67 contacts the spool 29, 38, 39 (as explained above), the spring 73 is in constant contact with both the spool 29, 38, 39 and the rod/plunger 67. In summary, the system of RESCH et al. includes a plunger 67 which apparently never contacts the spool, and a spring 73 which is apparently never spaced from the spool. Accordingly, it is clear that RESCH et al. lacks any disclosure of a push rod connected to a brake pedal, which moves between positions *spaced from* a spool and *contacting* a spool. In contrast, note for example the push rods 118 and 118a shown in the embodiments of Figs. 9(a) and 9(b) of the present application.

Further, even assuming, arguendo, that the plunger 67 contacts the spool 29, 38, 39 under some system failure condition (as is apparently suggested by the Examiner), Applicants submit that there is no time during which the proportional pressure controller controls the pressure of the pressurized braking liquid in accordance with *only* the stroke signal, as is recited in claim 1. In this regard, Applicants submit that since the spring 73 constantly

P24073.A03

contacts and pushes against the spool 29, 38, 39 in the system of RESCH et al., there is no time during which the proportional pressure controller controls the pressure of the pressurized braking liquid in accordance with *only* the stroke signal (since the pressure of the spring is clearly influenced by the movement of the rod/plunger 67). In this regard, Applicants note that claim 1 has been amended to further clarify that the proportional pressure controller controls the pressure of the pressurized braking liquid in accordance with the stroke signal *and free from the motion of the push rod* before the push rod contacts and pushes the spool.

Applicants respectfully submit that the rejection of claims 1-3 under 35 U.S.C. § 102(b) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection and an early indication of the allowance of these claims.

SUMMARY AND CONCLUSION

Entry and consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims that have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
M. YOSHINO et al.



Bruce H. Bernstein  
Reg. No. 29,027

Daniel B. Moon  
Reg. No. 48,214

December 27, 2004  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191